

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY CITY OF CROOKS, CROOKS,
SD AGAINST BELMAN LANDSCAPING,
SIOUX FALLS, SD, FOR AN INCIDENT
OCCURRING ON APRIL 13, 2021 AT
25760 PACKARD LANE, RENNER, SD.

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SOUTH
DAKOTA ONE CALL BOARD**

OC21-003

On April 14, 2021, the South Dakota One Call Board received a Complaint filed by City of Crooks (herein "Claimant"), against Belman's Landscaping LLC (herein "Respondent"), for an incident occurring on April 13, 2021, at 25760 Packard Lane, Renner, SD. The Complaint alleges violations of SDCL 49-7A-5 and 49-7A-12 when Respondent was constructing a chain link fence and made post holes with an auger which struck the gas line. Respondent allegedly covered the hole after hitting line. Claimant alleges Respondent stated they were told to do so in past projects. Claimant further alleges that the homeowner called 911 and the Claimant's Helpline to report the damage as the Respondent was not sure who to contact.

A copy of the Complaint was sent to Respondent on April 22, 2021. The deadline to respond was May 12, 2021. Respondent had answered the Complaint as of April 26, 2021 and does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges the homeowner and they called 911. Respondent further alleges they did not request a locate because the homeowner stated the previous company had called in a locate.

On June 17, 2021, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause that intentional violations of SDCL 49-7A-5 and SDCL 49-7A-12 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$750 suspended for the violation of SDCL 49-7A-5 and a penalty of \$1,000 with \$750 suspended for the violation of SDCL 49-7A-12 for a total penalty of \$2,000 with \$1,500 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:

1. Respondent must not be found guilty of a One-Call violation within 12 months of the Board Order,

2. The penalty payment of \$500 must be made to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**
3. Respondent must attend a Damage Prevention meeting in 2022.
4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date, and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within thirty (30) days of the Board Order being issued.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (\$1,500) becomes immediately due and payable to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing, a party must reply within twenty (20) days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.